D.B. CIVIL SPECIAL APPEAL (W) NO.740/2006
(Lehari Ram & Anr. Vs. State of Raj & Ors.)

Date of order : 5.12.2006

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. S.L. Jain, for the appellants.

Having heard learned counsel for the appellants, we are of the opinion that it is not a case in which confirmation of the interim order passed by learned Single Judge requires any interference.

The Board of Revenue had directed to add the names of the appellants before us in the allotment letter issued in favour of Dewan Chand one of sons of Dita Ram. The writ petition has been filed by the heirs of said Dewan Chand, challenging the order of Board of Revenue directing the addition of names of other brothers of Dewan Chand in the allotment letter.

The writ petition has been admitted. Since, the petition was admitted, further proceedings in pursuance of the impugned order of Board of Revenue was stayed resulting in keeping the land record unaltered until further orders. The application for vacating the said interim order was rejected by the learned Single Judge.

We are of the opinion that in the circumstances, where further proceedings in furtherance of the order of Board of Revenue has been stayed when the validity of said order is sub-judice before this Court, it cannot be said that the interim order passed by learned Single Judge is causing irreparable injury to the appellants. If the allotment letter is ultimately found to inure for the benefits of all the heirs of Dita Ram, the rights of appellants shall remain unimpaired. Rights, if any, in favour of the appellants flow from the original allotment and not from directions to correction in land records. Any dealing with the land in question by Dewan Chand or his legal heirs will otherwise be subject to doctrine of lis pendence and be subject to result of writ petition. Hence the order under appeal cannot be said to be such which can be termed as injudicious exercise of discretion.

The appeal fails and is hereby dismissed.

(GOPAL KRISHAN VYAS), J. (RAJESH BALIA), J.

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